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October 9, 2001

Intellectual Property  
 Patent Litigation  
 Copyright Litigation  
 Litigation • Trade Secrets  
 Computer Law • Biotechnology  
 Unfair Competition • Enforcement

Box Patent Application  
 Commissioner for Patents  
 Washington, D.C. 20231

Dear Sir:

Transmitted herewith for filing under 37 C.F.R. § 1.53(b) is a patent application entitled PROXIMAL CONICAL COLLAR, comprising:

- X   A continuing application as indicated below:
- X   Continuation of prior application no. 09/190,423, filed November 12, 1998, which is hereby incorporated by reference in the enclosed application in its entirety.
- This continuation constitutes the enclosed true and complete copy of said prior application, together with any instructions or amendments provided herein or herewith.
- Divisional of prior application no. \_\_\_\_\_, filed \*\*\*[date]\*\*\*, which is hereby incorporated by reference in the enclosed application in its entirety.
- This divisional constitutes the enclosed true and complete copy of said prior application, together with any instructions or amendments provided herein or herewith.
- Continuation-in-part of prior application no. \_\_\_\_\_, filed \*\*\*[date]\*\*\* which is hereby incorporated by reference in the enclosed application in its entirety.
- A patent application claiming the benefit of U.S. Provisional Application No. \*\*/\*\*\*, \*\*\*, filed \*\*\*[date]\*\*\*, which is hereby incorporated by reference in the enclosed application in its entirety.

CERTIFICATE OF MAILING BY EXPRESS MAIL LABEL NO. EK439071595US

Mailed: October 9, 2001

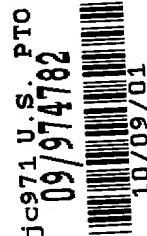
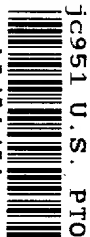
I hereby certify that this correspondence, and all enclosures indicated, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above in an envelope addressed to: Box Patent Application, Commissioner for Patents, Washington D.C. 20231.

Respectfully submitted,

*Karl R. Cannon*

Karl R. Cannon  
 Attorney Registration No. 36,468  
 Attorney for Applicant

10/09/01



09/190,423

- ☒ Thirty-Seven (37) pages of specification, claims and abstract.
- ☒ Three (3) sheets of ☒ formal/\_\_\_informal drawings.
- \_\_\_ Declaration, Power of Attorney and Petition.  
\_\_\_ Newly Executed  
\_\_\_ Copy from prior application (when a continuation or divisional) (37 C.F.R. § 1.63(d))  
\_\_\_ Associate or Substitute Power of Attorney
- \_\_\_ Microfiche Computer Program (Appendix)
- \_\_\_ Nucleotide and/or Amino Acid Sequence Submission  
\_\_\_ Computer Readable Copy  
\_\_\_ Paper Copy (identical to computer readable copy)  
\_\_\_ Statement verifying identity of above referenced copies

Also enclosed are:

- \_\_\_ An Assignment from \_\_\_\_\_ to \_\_\_\_\_ (including assignment cover sheet)
- ☒ An Information Disclosure Statement under 37 C.F.R. §1.97 accompanied by a Form PTO-1449, without copies, as they have already been submitted
- \_\_\_ Preliminary Remarks.
- ☒ A return receipt postcard under MPEP § 503, indicating specially itemized enclosures.
- \_\_\_ A Certificate Under 37 C.F.R. §3.73(b) to Establish Right of Assignee to Take Action.
- \_\_\_ A Certificate of Express Mailing certifying a filing date of \*\*\*[filing date]\*\*\* by use of Express Mail Label No. \*\*\*[Label No.]\*\*\*.
- \_\_\_ A Declaration Claiming Small Entity Status for \*\*\*[independent inventor, etc.]\*\*\*, under 37 C.F.R. §§ 1.9 and 1.27.

106007-2344660

- \_\_\_\_\_ A paper entitled "Establishment of Small Entity Status" under 37 C.F.R. § 1.28(a), along with a copy of the declaration claiming small entity status under 37 C.F.R. §§ 1.9 and 1.27 filed in the prior application.
- \_\_\_\_\_ Certified copy of priority document(s) (if foreign priority is claimed).
- \_\_\_\_\_ A copy of the extension of time simultaneously filed in the prior application.

Instructions and Averments:

- X Incorporation by Reference (if a copy of the declaration from prior application is included). The entire disclosure of the prior application, from which a copy of the declaration is supplied herewith as referenced above, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- X Claims 1-23 correspond closely, though not identically, to claims 1-23, respectively, of commonly owned U.S. Patent No. 5,725,594 (hereinafter "'594 patent"). It is respectfully submitted that changes sufficient to avoid statutory double patenting have been made to the present claims. The patent owner's reason for filing this continuation application is to obtain examination of claims close to the '594 patent claims in order to obtain a presumption of validity, over a prior art reference made a part of the accompanying Information Disclosure Statement. Since the prior art reference is believed to be substantively cumulative of several references that are of record in the '594 patent, and since the claims submitted are patentably similar to those of the '594 patent, it is suggested that the claims presented are patentable and allowable for the same reasons that the '594 patent was granted. Examination may be simplified accordingly, and the patent owner respectfully submits that a first-action allowance is appropriate in this case.
- \_\_\_\_\_ A Declaration Claiming Small Entity Status was filed in the prior application and such status is still proper and desired.
- \_\_\_\_\_ Cancel in this application original claims \_\_\_\_\_ of the prior application before calculating the filing fee.
- \_\_\_\_\_ Pursuant to 37 C.F.R. § 1.78(a)(2), please amend the specification as follows:

T0600T" 2344650

FEES

X No Fees are enclosed.

\_\_\_\_ Check No. \_\_\_\_\_ in the amount of \$461.00 which represents the filing fee for this application.

The fees have been calculated as set forth below.

PATENT APPLICATION FEE CALCULATION TABLE							
			SMALL ENTITY			LARGE ENTITY	
	NO. FILED	NO. EXTRA	RATE	FEE	OR	RATE	FEE
BASIC FEE				\$ 370	OR		\$ 710
TOTAL CLAIMS	24 - 20 =	4	X 9 =	\$ 36	OR	X 18 =	\$
IND. CLAIMS	03 - 03 =	0	X 42 =	\$	OR	X 80 =	\$
Presentation of Multiple Dependent Claims			+ 140 =	\$ -	OR	+ 270 =	\$
ASSIGNMENT RECORDATION FEE ( )			+ 40 =	\$ -	OR	+ 40 =	\$
			<b>TOTAL:</b>	\$ 406.00	OR	<b>TOTAL:</b>	\$

The Commissioner is hereby authorized to charge payment of the following fees associated with this communication, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

\_\_\_\_ An original and one copy of this letter are enclosed.

\_\_\_\_ Any additional filing fees required under 37 C.F.R. § 1.16.

\_\_\_\_ Any patent application processing fees under 37 C.F.R. § 1.17.

The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

\_\_\_\_ Any patent application processing fees under 37 C.F.R. § 1.17.

\_\_\_\_ The issue fee set forth in 37 C.F.R. § 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b).

\_\_\_\_ Any filing fees under 37 C.F.R. § 1.16 for presentation of extra claims.

CORRESPONDENCE ADDRESS

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Customer No. 20449

X Please direct all future telecommunications to:

Karl R. Cannon  
Clayton, Howarth & Cannon, P.C.  
Telephone: (801) 255-5335  
Facsimile: (801) 255-5338

X Please refer to the following attorney docket number in all future correspondence and telecommunications:

T2108.CONT.CONT.CIP.CONT2

Dated this 9 day of October, 2001.

Respectfully submitted,



Karl R. Cannon  
Attorney Registration No. 36,468  
Attorney for Applicant

Clayton, Howarth & Cannon, P.C.  
P.O. Box 1909  
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KRC:hf

Enclosures: Application with 3 drawings  
Independent Disclosure Statement  
PTO-1449 w/o copies (submitted previously)  
Postcard